

**Governor's Advisory Council on Planning Coordination
April 4, 2005
Paradee Center, Dover
Minutes**

The Governor's Advisory Council on Planning Coordination held a meeting on Monday, April 4, 2005 at the University of Delaware Paradee Center, Dover, Delaware.

Members Present: **Lt. Governor John Carney, Chair**
 Eileen Butler
 Brad Connor
 Joseph Corrado
 Bernice Edwards
 Secretary Nathan Hayward
 Secretary John Hughes
 Robert McLeod
 Richard Pryor
 Marty Ross
 Representative Roger Roy
 Secretary Michael Scuse
 David Singleton
 Senator Robert Venables
 Rick Woodin

Members Absent: **Judy McKinney Cherry**
 Randy Marvel
 Paul Morrill
 Kenneth Murphy
 Joe Myer
 Robert Stickels
 Lee Ann Walling

Staff Present: **Connie Holland**
 David Edgell
 Herb Inden
 Mike Mahaffie
 Laura Simmons
 Ann Marie Townshend

John Carney called the meeting to order at 1:10 P.M. and introduced David Singleton, the Council's New Castle County member.

LIVABILITY CRITERIA

Herb Inden of the Office of State Planning Coordination explained progress to date in setting up this recognition program. He noted that the criteria would not be used at this time for the review of PLUS projects. Comments have been received from the Departments of Education and Safety and Homeland Security. The Council endorsed Mr. Inden's proposal to form a peer-review panel to judge projects. The panel will be a partnership of state and private-sector professionals. Connie Holland requested and received the Council's approval to 1) complete a legal review of the program with regard to confidentiality issues, and 2) to pursue joint sponsorship with the Delaware APA,

Delaware Institute for Planning and Design and the Delaware Association for Professional Engineers and possibly others.

GOVERNOR'S LIVABLE DELAWARE LEGISLATIVE AGENDA

Annexation policy

Connie Holland described amending annexation law in three specific areas with one piece of legislation that will require certified comprehensive plans in advance of municipal annexations, expedite the process for enclave annexations, and make annexations easier for the City of Wilmington.

Robert McLeod pointed out the importance of reaching agreement on the bill's definition of "enclave", given the competing interests of neighboring jurisdictions.

Brad Connor stated that the League of Local Governments and the Sussex County Association of Towns will oppose the certification piece. It is viewed as usurping local authority and unnecessary due to OSPC's success in fostering cooperative relationships with local jurisdictions.

Michael Scuse cited the tremendous pressure brought to bear on towns to annex land for development. He suggested the bill limits the possibility of future annexations taking place against a certified comprehensive plan involving inter-jurisdictional cooperation, as has happened in the past.

Rick Woodin countered that the legislation is not needed because the instance where this occurred was due to the actions of two individuals. He agreed that the state works well with towns, making it unlikely that this would happen again in the future.

Robert Venables noted that the Town of Smyrna suffered the loss of significant state resources as a result of its actions, which he believes is a good example of open government. Mr. Scuse argued that the public wasn't afforded the opportunity to participate in the Town's decision, another aspect of the issue that the Governor's legislation would serve to correct.

Nathan Hayward suggested the legislation be split into three bills to ensure passage of some if not all of the initiative, and that the goal of the enclave piece could be accomplished via an omnibus bill amending all town charters.

Mr. Carney concluded the discussion by acknowledging that local jurisdictions have concerns that can be addressed in an ongoing dialogue as the legislation moves forward.

Forestland preservation legislation

Mr. Scuse explained that enhanced forestland preservation legislation has been drafted and distributed for review by the Council.

Marty Ross questioned several aspects of the bill, including but not limited to the open space overlay, wetland vs. forestland criteria, the definition of habitat, the residential component of forestland, hunting as a commercial activity, and the alteration of forestry district management practices over time.

Following a lengthy exchange, Mr. Carney directed that comments be generalized and specific details of the bill addressed after all members of Council have reviewed it. Mr. Scuse agreed to email the bill to everyone and asked for comments as soon as possible. If the bill is not approved by June, there will be a year's delay due to the timing of the application and selection process.

Mr. Venables stated his support for the legislation despite his concern that Federal authority prevails.

Mr. Woodin asked if equine use is equivalent to agricultural use. Mr. Scuse answered that it is not, however the bill makes it so for agland preservation purposes.

Mr. Carney concluded the discussion by citing the Council's general consensus of support for the legislation with details to be worked out as soon as possible.

Transfer of development rights

Mr. Scuse reviewed the basic concepts behind this incentive, which is currently being drafted for presentation and review at the next Council meeting. Ms. Holland noted Kent County's support and preservation efforts east of SR 1.

Community septic limitations

John Hughes described limits currently in place in local jurisdictions and endorsed the effort as a good land-use application of environmental law.

Mr. Scuse praised the initiative to limit development in Level 4 areas and noted it will have real environmental impact and benefit farmland protection. Ms. Holland added that local jurisdictions support limitations on community septic systems.

Joseph Corrado stated that, from a management point of view, limitations are preferable to taking over failed systems. A brief discussion of bonding requirements and fiduciary responsibility followed.

Mr. Ross suggested that the group address the viability/maintainability of community septic systems in another forum. He asserted that mandated limits will encourage fragmentation of larger parcels and the sale of assets, contrary to the interests of and unfair to property owners in Level 4 areas.

Mr. Scuse countered that there has been no evidence of fragmentation occurring in other areas, and that taxpayers should not bear the burden of supporting development where it has not been planned.

Environmental covenants

Mr. Hughes briefly described how existing law can be changed to expand DNREC ability to use easements and other land-use rights to preserve open space.

Livable fire codes

Mr. Corrado briefly described how fire lane codes can be updated to be more compatible with traditional neighborhoods and main street town center design.

OTHER BUSINESS

Mr. Carney adjourned the meeting at 3:00 P.M.